

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>RICHARD GARNER FRAUNFELDER,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO. 06-0256-CG-M</b>
	)	
<b>CITY OF MOBILE, ALABAMA,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

This matter is before the court on the motion of defendant, City of Mobile, Alabama, to dismiss (Doc. 7), and plaintiff's response thereto (Doc. 14). Defendant asserts that plaintiff's claims are due to be dismissed because they were filed after the expiration of the applicable statute of limitations. Plaintiff's handwritten date and the time stamp on his complaint both indicate that it was filed on April 24, 2006, two years and one day after April 23, 2004, the date plaintiff alleges the incidents occurred that gave rise to his claims. Plaintiff asserts that he filed the complaint in the night deposit box on the 23<sup>rd</sup> but that he only stamped the outer envelope that contained his pleadings. It is immaterial whether the complaint was actually filed the 23<sup>rd</sup> or the 24<sup>th</sup>, because April 23, 2006 was a Sunday and thus, the statute of limitations did not run until April 24, 2006. FED. R. CIV. P. 6(a) ("In computing any period of time prescribed or allowed by ...any applicable statute ... The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the district court inaccessible, in which event the period runs until the end of the next day which

is not one of the aforementioned days.”) Accordingly, the court finds that plaintiff’s complaint was filed within two years of the alleged incidents that gave rise to plaintiff’s claims.

Defendant’s motion to dismiss (Doc. 7) is **DENIED**.

**DONE and ORDERED** this 25<sup>th</sup> day of January, 2007.

/s/ Callie V. S. Granade  
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CHIEF UNITED STATES DISTRICT JUDGE